

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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**JASON CUEVAS,**

Plaintiff,

-against-

**THE CITY OF NEW YORK, DETECTIVE ODALIS PEREZ OF NARCBBX, SHIELD #7037, DET. JOSE A. PEINAN OF NARCBBX, SHIELD #2276 AND THE UNDERCOVER OFFICER/DETECTIVE WHO WAS THE GHOST ON DOCKET #2011BX059587 & ARREST #B11685344 S/H/A JOHN/JANE DOE I,**

Defendants.

Index No.: 305271-2012  
Law Dept #2012-029380

JUDGMENT & BILL OF COSTS

**RECEIVED BY:**

FEB 07 2014

**Judgment Department**

X

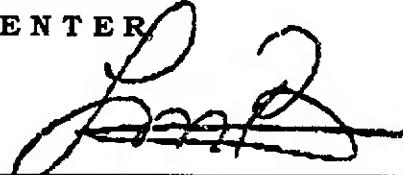
The issues in this action were duly settled at an Early Settlement Conference with Assistant Corporation Counsel Gianna Famulari of the NYC Corporation Counsel's Office on October 8, 2013 at 100 Church Street, New York, New York 10007 and the Plaintiff and Defendants having appeared by their respective attorneys, **PAPA, DEPAOLA AND BROUNSTEIN**, by **JOHN R. DEPAOLA** for Plaintiff and **CORPORATION COUNSEL OF THE CITY OF NEW YORK, by an Assistant Corporation Counsel Gianna Famulari of the Corporation Counsel** and all claims were settled for the sum of Forty Five Thousand Dollars (\$45,000) for plaintiff. The Plaintiff, as required by CPLR Section 5003(a) has tendered, via certified mail, return receipt requested, a general release, affidavit of no liens and a stipulation discontinuing the action in duplicate. Pursuant to Section CPLR 5003-a subdiv b, the City of New York had ninety (90) days to properly pay the monies due, after the above documents were tendered. The documents were tendered on October 9, 2013 and actually received on October 10, 2013 by the City of New York as per the exhibits annexed to Counsel's affirmation. Plaintiff's costs and disbursements and taxed by the Clerk are in the amount of \$ **550.00**.

**NOW**, on application of **PAPA, DEPAOLA AND BROUNSTEIN**, attorneys for the Plaintiffs, it is

**ORDERED, ADJUDGED and DECREED**, that Plaintiff recover of Defendant, **CITY OF NEW YORK** the sum of Forty Five Thousand Dollars (\$45,000) with pre-entry of judgment interest from October 9, 2013 to February 10, 2014 at a rate of nine (9%) percent for a total of \$1361.25 and with post-entry of judgment interest from October 9, 2013 to the date of payment at a per diem rate of \$11.25 pursuant to CPLR 5002 and 5003 together with costs and disbursements as taxed by the Clerk of the Court in the sum of \$550.00 for Plaintiff, for a total of \$46,911.25 shall be awarded to

Plaintiff Jason Cuevas, 2634 Decatur Avenue, Apt 2, Bronx, New York 10458. The defendant's address is NYC Corporation Counsel, 100 Church Street, New York, New York 10007.

**SO ORDERED:**

  
ENTER

CLERK OF THE SUPREME COURT  
OF THE CITY OF NEW YORK

SUPREME COURT  
COUNTY OF BRONX

JASON CUEVAS,

against

CITY OF NEW YORK, ET AL

Plaintiff(s)

Costs of

Defendant(s)

	DISBURSEMENTS		
Costs before note of issue CPLR §8201 subd. 1	\$ 200 00	Fee for index number CPLR §8015(a) Referee's fees CPLR §8301(a)	\$ 210.00
Costs after note of issue CPLR §8201 subd. 2		Commissioner's compensation CPLR §8301(a)2	
Trial of issue CPLR §8201 subd. 3		Clerk's fee, filing notice of pend. or attach. CPLR §8075(e) §8021(a)12	
COSTS Allowance by statute CPLR §8302(a)(b)		Clerk's fee cancel. notice of pend. CPLR §8021(a)12	
Additional allowance CPLR §8302(d)		Entering and docketing judgment CPLR §8301(a)7 §8016(a)3	
Motion costs CPLR §8202		Paid for searches CPLR §8301(a)10	
Appeal to Appellate Term CPLR §8203(a)		Affidavits & acknowledgments CPLR §8009	
Appeal to Appellate Division CPLR §8204(a)		Serving copy summons & complaint CPLR §8011(c)1 §8301(d)	
Appeal to Court of Appeals before argument CPLR §8204 subd. 1		Note of issue CPLR §8020(a)	
Appeal to Court of Appeals for argument CPLR §8204 subd. 2		Paid referee's report CPLR §8301(a)12	
		Certified copies of papers CPLR §8301(a)4	
		Satisfaction payment CPLR §8011(b)	
		Transcripts CPLR §8301(a)11	
		Certified copy of judgment CPLR §8021	
		Postage FEB 10 2014	
		Jury fee Clerk	
		Stenographer fees Clerk	
		Sheriff's fees on execution CPLR §8011(b) §8012	
		Sheriff's fees, attachment, arrest, etc. CPLR §8011(a)(c)2, 3(g)	
		Paid printing cases CPLR §8301(a)6	
		Paid printing case CPLR §8301(a)6	
		Clerk's fees Court of Appeals CPLR §8301(a)10	
		Paid copies of papers CPLR §8016(a)4	
		Motion expenses CPLR §8201(b)	
		Fees for publication CPLR §8301(a)3	
		Serving subpoena CPLR §8011(c)1 §8301(d)	
		Paid for Register's Search CPLR §8301(a)10	
		" " County Clerk's Search	
		" " Local Commissioner's Search	
		" " U.S. District Court Search	
		" " U.S. Circuit Court Search	
		" " Tax Search	
		" " Referee's Report	
		Attendance of Witnesses CPLR §8001(e)(b)(c) §8301(a)1	
		Stipulation of Discontinuance	35 00
Costs	200 00		
DISBURSEMENTS	350 00		
TOTAL	\$ 550 00		\$ 350.00

STATE OF NEW YORK, COUNTY OF QUEENS

ATTORNEY'S AFFIRMATION

The undersigned, an attorney admitted to practice in the courts of this state, affirms: that he is

the attorney(s) of record for the JOHN R DEPAOLA

in the above entitled action; that the foregoing disbursements have been or will necessarily be made or incurred in this action and are reasonable in amount and that each of the persons named as witnesses, attended as such witness on the trial, hearing or examination before trial herein the number of days set opposite their names; that each of said persons resided the number of miles set opposite their names, from the place of said trial, hearing or examination; and each of said persons, as such witness as aforesaid necessarily traveled the number of miles so set opposite their names, in traveling to, and the same distance in returning from the same place of trial, hearing or examination; and that copies of documents or papers as charged herein were actually and necessarily obtained for use.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

Jan. 28, 2014

The name signed must be printed beneath

JOHN R DEPAOLA

Index No.  
SUPREME COURT  
COUNTY OF BRONX  
JASON CUEVAS,

Plaintiff(s)

against

Defendant(s)

CITY OF NEW YORK,

Bill of Costs

And Notice of Taxation

Sir: Please Take Notice that the within is a true copy of the bills of costs and disbursements in the within action ~~served~~ and ~~on~~ the same will be taxed by the Clerk of Court, ~~in his~~ office in the courthouse thereof on the day of ~~19~~ ~~19~~, at ~~12~~ o'clock in the noon of that date and the amount inserted in the judgment.

State of New York, County of

S.

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A.D.

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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

Index No.: 305271-2012  
Law Dept #2012-029380

**JASON CUEVAS,**

**Plaintiff,**

**-against-**

**THE CITY OF NEW YORK, DETECTIVE ODALIS PEREZ OF NARCBBX, SHIELD #7037, DET. JOSE A. PEINAN OF NARCBBX, SHIELD #2276 AND THE UNDERCOVER OFFICER/DETECTIVE WHO WAS THE GHOST ON DOCKET #2011BX059587 & ARREST #B11685344 S/H/A JOHN/JANE DOE I,**

**Defendants.**

**AFFIRMATION IN  
SUPPORT OF  
JUDGMENT**

**JOHN R. DEPAOLA**, an attorney duly admitted to practice law before the Courts of the State of New York affirms the following under penalties of perjury pursuant to CPLR 2106.

1. That I am a partner with the law firm of **Papa, DePaola and Brounstein**, the attorneys of record for the Plaintiff herein and as such am fully familiar with the facts and circumstances of this case based on my conversations with the Plaintiff, employees of the City of New York and documents contained in my file.

**PROCEDURAL HISTORY**

2. This is an action based on an assault, battery, false arrest, false imprisonment, illegal search and seizure and violations of civil and constitutional rights pursuant to 42 U.S.C. Section 1983 which occurred on October 24, 2011, at approximately 5:15 pm in the vicinity of Ryer Avenue between 182<sup>nd</sup> Street and Field Place, County of Bronx, State of New York.

3. This case was settled at a early settlement conference on October 9, 2013 with Assistant Corporation Counsel Gianna Famulari of the NYC Corporation Counsel in the amount of Forty Five Thousand Dollars (\$45,000) for plaintiff. To date, payment has not been received for either plaintiff ,thus, necessitating this motion.
4. Pursuant to CPLR 5003(a) the Plaintiff, through my office, tendered a General Release, Affidavit of No Liens and Stipulation of Discontinuance. These documents were all sent via certified mail on October 9, 2013 and received on October 10, 2013 by the City of New York, see **Exhibit One**. Pursuant to CPLR 5003 (a) the City of New York had ninety (90) days from the date the settlement documents were tendered to pay the settlement amount. That date being January 9, 2014, see Exhibit One. This date has come and passed without payment by the City of New York.
5. As of this writing, the City of New York has not tendered payment. My office has called the City of New York on several occasions as well as E-mailed the City of New York on several occasions wherein we were advised that the check would be forwarded to the NYC Comptroller's Office for payment.
6. Pursuant to CPLR 5003 (a) the City of New York had ninety (90) days from the date the settlement papers were received for the immediate approval for payment. With the City of New York failing to pay the agreed upon settlement monies within the ninety (90) day period beginning on October 9, 2013 and ending on January 9, 2014 the City

is in default and pursuant to CPLR 5003 (e) this application need not be done on notice to the city.

7. As a courtesy we have provided a copy of this application and judgment which we will submit on January 28, 2014 to the Clerk of the Court for entering of the Judgment with a Bill of Costs. We have further submitted a Bill of Costs with receipt for the index number, RJI and serving of the Summons as ***Exhibit Two***.

**WHEREFORE**, the Plaintiff requests that the Clerk of the Court enter judgment and grant such further relief that is just and fair, including costs and attorneys fees for the applicable.

Dated: Bayside, New York  
January 28 2014

Yours, etc.



**PAPA, DEPAOLA AND BROUNSTEIN**  
**BY: JOHN R. DEPAOLA**  
42-40 Bell Boulevard  
Bayside, New York 11361  
718-281-4000

TO: **CORPORATION COUNSEL OF THE  
CITY OF NEW YORK**  
100 Church Street  
New York, NY 10007